IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2368 OF 2004

Ruturaj Co-operative Housing
Society Limited .. Petitioner.
Versus
Pune Municipal Corporation & Ors .. Respondents.

Mr.S.B.Deshmukh i/b.A.V.Anturkar for petitioner.
None for respondents.

CORAM : R.M.SAVANT, J.
DATE : 11th June, 2007.

P.C.

1. This petition impugns the order dated 19th December, 2003, passed by the 16th Addl.District Judge, Pune dismissing the appeal filed by the petitioner-society.

2. The petitioner is the original plaintiff who had filed the suit for declaration and permanent injunction in the Court of Civil Judge, Jr.Division, Pune. The dispute in question is as regards part of survey No.692A/2A/2 being Plot No.64-C situated at Bibewadi, Pune which is an

open space, situated in the said survey number. It is the case of the petitioner that the said plot has been encroached upon by slum dwellers by constructing the Samaj Mandir and toilet blocks.

3. The Trial Court has rejected the application for interim injunction filed by the petitioner on the ground that the plot has not been properly identified by the petitioner in the plaint nor at the time of the hearing of the said application.

4. The appeal filed by the petitioner has also been rejected on the said ground and the order passed by the Trial Court has been confirmed. The petitioner claims to be the owner of a larger plot of land being survey No.692A/2A/2, admeasuring about 9 Acres, 23 Gunthas and 14 Aane. The petitioner was not able to make out a prima-facie case for grant of the discretionary relief of injunction and that the

said relief has been rejected by both the Trial Court as well as the Appellate Court on the basis of the material on record.

5. I do not find any error committed by both the courts below in passing the said orders. In that view of the matter, no case for interference under Article 227 of the Constitution of India is made out.

6. Needless to say that the encroachment on the plot, removal of which the petitioner claims would be subject to the final result in the said suit. The petitioner is a housing society which is seeking to get the encroachment removed and has therefore filed the said suit. Hence, it would be in the interest of justice that the hearing of the said suit is expedited and it is directed to be disposed of by 31st March, 2008.

7. With the aforesaid directions, petition

is dismissed.

(R.M.SAVANT, J.)